

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Cr.M.P. No. 1087 of 2017**

Ghanshyam Yadu S/o Kamaldhar Yadu, Aged About 27 Years Caste Rawat, R/o Village Latapara, Post Office Police Station & Tahsil Deobhog, District Gariyaband Chhattisgarh.

---- Petitioner**Versus**

State Of Chhattisgarh Through The District Magistrate, Gariyaband, District- Gariyaband, Chhattisgarh.

---- Respondent

For the Petitioner	: Shri Shivendu Pandya, Advocate.
For Respondent No.2/ State	: Shri Neeraj Sharma, Deputy Government Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****04.10.2017**

1. Heard.
2. This petition has been brought by the petitioner under Section 482 of the Code of Criminal Procedure with a prayer to quash the order passed by the Additional Sessions Judge, Gariyaband, District Gariyaband in Criminal Revision No. 9 of 2017 dated 11.4.2017 upholding the order passed by the Judicial Magistrate First Class, Deobhog for rejection of the application of the petitioner under Section 437(6) of the Code of Criminal Procedure.
3. It is submitted by counsel for the petitioner that the petitioner is continuously in jail since the date of his arrest. After filing of the charge-sheet, the charges were framed against the petitioner and other co-accused persons on 2.2.2016. The case was fixed for hearing on 15.2.2016. Thereafter, the evidence of the prosecution could not be completed within 60

days. The petitioner moved an application under Section 437(6) of the Cr.P.C. which was rejected by the trial Court on 17.2.2017. The revision preferred against this order has also been rejected by the order of the Additional Sessions Judge. It is submitted that the Courts below have arbitrarily passed orders of rejection for grant of bail to the petitioner. The provision under Section 437(6) of the Cr.P.C. is mandatory and it is on the basis of the default committed by the prosecution, the petitioner is entitled for grant of bail.

4. Learned State counsel opposes the petition and the submissions made in this respect. It is submitted that the charges were framed against the petitioner under Sections 120(B), 420, 467, 468 and 471 of the Indian Penal Code. It is alleged that the petitioner and others have defalcated and misappropriated an amount of Rs.4,01,96,145/- which is a huge amount and the offence is of huge magnitude, hence, the petitioner is not entitled for grant of bail. His applications for bail before the trial Court and Court of Sessions as well as before the High Court have been rejected.

5. Learned counsel for the petitioner placed reliance on decisions in **Cr.M.P. No. 1028 of 2017, Domar Das Vaishnav vs. State of Chhattisgarh** (decided on 21.09.2017), **Cr.M.P. No. 800 of 2017, Sarafraj Khan vs. State of Chhattisgarh** (decided on 30.08.2017), **Cr.M.P. No. 821 of 2017, Nitin Chourasiya vs. State of Chhattisgarh** (decided on 23.08.2017), **2017(2) C.G.L.J. 1 Santosh Dubey Vs. State of Chhattisgarh, Cr.M.P. No. 1447 of 2016, Suneshwar Singh Thakur vs. State of Chhattisgarh** (decided on 10.03.2017), **Cr.M.P. No. 346 of 2015, Dhannu Mandal vs. State of Chhattisgarh** (decided on 13.08.2015), **Cr.M.P. No. 543 of 2015, Gokaran**

Sahu and Others vs. State of Chhattisgarh (decided on 17.08.2015), **Cr.M.P. No. 526 of 2014, Nohar Devdas vs. State of Chhattisgarh** (decided on 19.06.2014), **Cr.M.P. No.169 of 2010, Rajesh Kumar Dewangan and Anr. vs. State of Chhattisgarh** (decided on 30.07.2010), **2009(5) M.P.H.T. 110 Amaan Khan vs. State of M.P., 2009 Cr.L.J. 4766 Riza Abdul Razak Zunzunnia vs. State of Gujrat, 2006(3) M.P.H.T. 371 Nanda vs. State of M.P., 2004(2) C.G.L.J. 135 Smt. Godawari Bai and Others vs. State of Chhattisgarh, 2002 Cr.L.R. (M.P.) 46 Haricharan Ramteke vs. State of Chhattisgarh, 2000(I) M.P. Weekly Notes 160 Ram Kumar @ Raj Kumar vs. State of M.P. and 2012(2) C.C.S.C. 882 (SC) Sajay Chandra vs. C.B.I.**

6. Heard learned counsel for the parties and perused the documents on record and the case-diary produced by the respondent.

7. While rejecting the application under Section 437(6) of the Cr.P.C., the trial Magistrate has assigned reason that the offences charged against the petitioner and others are of grievous nature which has an impact on the society. The Revisional Court has confirmed this view and relied on the judgment passed by this Court in **Atul Bagga vs. State of Chhattisgarh and Others** reported in **2010(1) C.G.L.J. 132**, in which it was held that the provision under Section 437(6) of the Cr.P.C. is not mandatory, if the offence committed is of huge magnitude and affects the society at large, in that case this shall be a proper reason to be assigned for rejecting the application under Section 437(6) of the Cr.P.C.

8. The petitioner and others were charged with offences of cheating, misappropriation, breach of trust, forgery, conspiracy and alleged to have caused loss to the State exchequer amounting to Rs.4,01,96,145/-.

9. Looking to the facts of the case, the offence appears to be of huge magnitude and it has an effect on the society at large. Hence, for these reasons following the principles laid down in **Atul Bagga vs. State of Chhattisgarh and Others** (supra), the petition for grant of bail under Section 437(6) of the Cr.P.C. does not deserves to be allowed and it is dismissed accordingly.

Sd/-

(Rajendra Chandra Singh Samant)
Judge